



# The Ceasefire Illusion: An Assessment of the Minsk II Agreement Between Ukraine and Russia

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## Summary

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- Russia and Ukraine are still at war. Despite the Minsk II agreement, signed in February 2015, Russia continues to fund, support, and arm separatists in eastern Ukraine. They, in turn, continue to dismiss, distract, and deny the work of the Organization for Security and Cooperation in Europe (OSCE), which is supposed to monitor the implementation of the agreement.
- Russia has violated a number of the commitments it made under Minsk II, in particular with regard to: point 3, concerning the monitoring of the ceasefire and the withdrawal of heavy weapons by the OSCE; point 7, concerning the distribution of humanitarian aid to those in need; and, point 10, concerning the withdrawal of all foreign armed groups, weapons and mercenaries from Ukraine.
- Ukraine initially undertook moves counter to its commitments under Minsk II, in particular the Temporary Order adopted in January 2015, but it has drawn back on these. As it has come under pressure from its international allies to meet its side of the agreement, Ukraine has pushed ahead with domestic reforms that have weakened Kyiv's political stability.
- The primary objective, for Ukraine and for the West, remains to ensure that Russia adheres to Minsk II. For this to be achieved, simply renewing, and tightening the implementation of, existing sanctions will not be enough. Nor will setting new ceasefire deadlines when Russia misses the existing ones. It is essential that the European Union demonstrates both a willingness to talk to President Putin and a readiness to increase sanctions against Russia.
- The West must also do more to help Ukraine. Those European countries already doing so should continue sending military advisors to Ukraine, training its forces, and shipping equipment in order to ensure that Kyiv would be able to defend the rest of its territory if large-scale fighting were to resume.

## 1. Introduction

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Ukraine and Russia are still at war. More than 9,000 people have been killed since the start of the conflict in April 2014, according to the United Nations (U.N.).<sup>1</sup> Of these, 212 have been killed since the signing of the Minsk II agreement, on 15 February 2015, which was supposed to have ended the fighting. The European Union (EU), which will meet in Brussels on 17 and 18 December to discuss renewing its sanctions against Russia, cannot afford to ignore this.

President Vladimir Putin has the ability to stop and start the war whenever it suits him. In the first six months following the signing of Minsk II, international monitors from the Organization for Security and Cooperation in Europe (OSCE) recorded fresh breaches daily, most often committed by Russia-backed forces. Then, in late August, the war stopped – just as Russian forces, tanks, and warplanes began arriving in the Latakia airbase in Syria. For two months, the OSCE reported that the ceasefire appeared to be holding. In early November the war started again; there have been dozens of incidents daily in which weapons that Russia was supposed to have withdrawn from the frontline have been fired at Ukrainian positions.

The reasons why Russia has violated the ceasefire in eastern Ukraine – in the Donetsk and Luhansk regions, where it deploys an estimated 9,000 regular troops and controls more than 30,000 irregular troops<sup>2</sup> – are unclear. Putin may be seeking to derail Kyiv's drive toward the EU, including the free-trade agreement which is due to come into effect on 1 January 2016. Putin may be seeking to use the global attention on Syria to increase the military pressure on Kyiv, in the hope that Ukrainian President Petro Poroshenko capitulates to Moscow's demands over a political settlement in eastern Ukraine. Whatever Putin's motivations, it is clear is that the Kremlin has not given up on undermining the pro-Western government in Kyiv, using whatever means at its disposal.

Russia's offer to ally with the West in the Middle East is part of this game. For the Kremlin, the price of cooperation in Syria is concessions on Ukraine – beginning with the lifting of EU sanctions, which were imposed in April 2014 and which will lapse on 31 January 2016 if not renewed. EU officials have said the sanctions will remain in effect until the agreement is fully implemented, but that was before the November 2015 terrorist attacks, by the so-called Islamic State, in Paris led the West to reach out to Putin.<sup>3</sup>

This policy paper analyses the Minsk II agreement since its agreement in February 2015 until the beginning of December 2015. It argues that Russia has failed to meet a number of the commitments it made under Minsk II, in particular those relating to: the monitoring of the ceasefire and the withdrawal of heavy weapons by the OSCE; ensuring the distribution of humanitarian aid to those in need; and, the withdrawal of all foreign armed groups, weapons and mercenaries from Ukraine. The paper concludes with a series of policy recommendations for what the EU can do to combat Russia's on-off war in Ukraine.

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<sup>1</sup> Cumming-Bruce, N., 'At Least 9,115 Killed in Ukraine Conflict, U.N. Says', *New York Times*, 9 December 2015, available at: <http://www.nytimes.com/2015/12/10/world/europe/ukraine-conflict-toll.html>, last visited: 10 December 2015.

<sup>2</sup> Nathan, A., 'Ukraine fears "big war" as Russia sends in more troops', *Independent on Sunday*, 16 August 2015, available at: <http://www.independent.co.uk/news/world/europe/ukraine-fears-big-war-as-russia-sends-in-more-troops-10457571.html>, last visited: 4 December 2015.

<sup>3</sup> 'Western leaders agreed to extend Russia sanctions by six months: diplomat', *Reuters*, 21 November 2015, available at: [www.reuters.com/article/2015/11/21/us-cu-russia-sanctions-idUSKCN0TA0XH20151121](http://www.reuters.com/article/2015/11/21/us-cu-russia-sanctions-idUSKCN0TA0XH20151121), last visited: 4 December 2015.

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## 2. Minsk II Agreement

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The Minsk II agreement was signed by Ukraine's President Petro Poroshenko and Russia's President Vladimir Putin, together with German Chancellor Angela Merkel and French President Francois Hollande, in Minsk, Belarus on 12 February 2015. It includes two documents.<sup>4</sup>

The first document, entitled 'Package of Measures for the Implementation of the Minsk Agreements', was signed by representatives of Ukraine, Russia, the OSCE, and the separatist entities in Donetsk and Luhansk. These measures, which are broken down into 13 points, contain both a political roadmap and a security component for Ukraine. These points modify the original Minsk agreements of 5 September 2014 and 19 September 2014, known together as the Minsk Protocol. In addition to the 13 points, there is an annex outlining a special status for the separatist-held areas of Donetsk and Luhansk.

The 13 points of the Minsk II agreement are:

1. *Immediate and comprehensive bilateral ceasefire*, which was to take effect in separatist-held territories in the Donetsk and Luhansk regions from 00:00 local time on 15 February.
2. *Withdrawal of all heavy weapons by both sides*, which would create a buffer zone of: at least 50km (30 miles) separating both sides for artillery systems of 100mm calibre or more; 70km for multiple rocket systems; and, 140km for the heaviest rocket and missile systems.
3. *Effective monitoring and verification regime for the ceasefire and withdrawal of heavy weapons*, which would be carried out by the OSCE.
4. *Dialogue on the holding of local elections in the Donetsk and Luhansk regions*, which was to be in line with the Ukrainian law on temporary self-rule for parts of these same regions.
5. *Pardon and amnesty by banning any prosecution of figures involved in the Donetsk and Luhansk conflict*.
6. *Release of all hostages and other illegally detained people*, which was to be completed no later than the fifth day after the military withdrawal.
7. *Ensure safe access, delivery, storage, and distribution of humanitarian aid to those in need, on the basis of international supervision*.
8. *Restore full social and economic links with affected areas*, which would include social transfers, such as payment of pensions, and the restoration, by Ukraine, of its banking services in regions affected by the conflict.

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<sup>4</sup> 'Package of measures for the Implementation of the Minsk agreements', *United Nations*, 12 February 2015, available at: [http://peacemaker.un.org/sites/peacemaker.un.org/files/UA\\_150212\\_MinskAgreement\\_en.pdf](http://peacemaker.un.org/sites/peacemaker.un.org/files/UA_150212_MinskAgreement_en.pdf), last visited: 4 December 2015.

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9. *Restore full Ukrainian government control over the state border, throughout the conflict zone, the process of which would begin following local elections and be completed by the end of 2015.*

10. *Withdrawal of all foreign armed groups, weapons and mercenaries from Ukrainian Territory, which would be monitored by the OSCE.*

11. *Constitutional reform in Ukraine, with the adoption of a new constitution by the end of 2015, which would include the decentralisation of power to the separatist-held territories in the Donetsk and Luhansk regions, and the adoption of permanent laws on the special status of those territories.*

12. *Hold local elections in the separatist-held territories of the Donetsk and Luhansk regions, which are to be held in accordance with the relevant OSCE standards and monitored by the OSCE.*

13. *Intensify the work of the Trilateral Contact Group on Ukraine, which includes representatives from the OSCE, Russia and Ukraine.*

The second document is a declaration by Poroshenko, Putin, Hollande, and Merkel “in support of” the package of measures.<sup>5</sup> The leaders reaffirm their “full respect for the sovereignty and territorial integrity of Ukraine”, but no mention is made of Crimea, the peninsula Russia annexed from Ukraine in March 2014.

### 3. Minsk II and Sanctions

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The West responded to Russia’s destabilisation of eastern Ukraine in the only non-military way it could – with economic sanctions. In late April 2014, the EU announced targeted sanctions against 15 individuals “for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine”.<sup>6</sup> These 15 names were added to an already existing list of individuals sanctioned for their role in Russia’s annexation of Crimea. In late July, in response to the escalating war in eastern Ukraine, the EU expanded its list with an additional 23 individuals and 21 entities,<sup>7</sup> which were followed shortly after by a series of sanctions against certain sectors of Russia’s economy, including defence, energy, and finance. Following the addition of a number of individuals and entities, on 16 February 2015, a total of 151 individuals and 37 entities are currently sanctioned by the EU.<sup>8</sup>

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<sup>5</sup> ‘Unanimously Adopting Resolution 2202 (2015), Security Council Calls on Parties to Implement Accords Aimed at Peaceful Settlement in Eastern Ukraine’, *United Nations*, 17 February 2015, available at: <http://www.un.org/press/en/2015/sc11785.doc.htm>, last visited: 10 December 2015.

<sup>6</sup> ‘Council Implementing Decision 2014/238/CFSP’, *Official Journal of the European Union*, 28 April 2014, available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L\\_2014\\_126\\_R\\_0005&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_2014_126_R_0005&from=EN), last visited: 4 December 2015.

<sup>7</sup> ‘Council Implementing Regulation (EU) No 810/2014’, *Official Journal of the European Union*, 25 July 2014, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0810&from=EN>, last visited: 4 December 2015.

<sup>8</sup> ‘New EU Sanctions Hit 2 Russian Deputy DMs’, *Agence France-Presse*, 16 February 2015, available at: <http://www.defensenews.com/story/defense/international/europe/2015/02/16/official-new-eu-sanctions-hit-two-russian-deputy-defence-ministers/23527227/>, last visited: 4 December 2015.

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Russia is reeling from these sanctions. Coupled with the decline in the global price of oil, sanctions led Russia's economy to contract by over 4% year-on-year in the third quarter of 2015, the ruble to lose almost half of its value versus the US dollar, the Russian Central Bank to spend significant currency reserves in order to artificially prop up the ruble, and capital flight from Russia to run at US\$100 billion a year. Russia's financial crisis is likely to continue in the short- to medium- term, as falling real wages, higher costs of borrowing, and shattered confidence have hit the domestic market.

In March 2015, the EU conditioned the lifting of its sanctions against Russia on the “complete implementation of the Minsk [II] Agreement”, in the words of European Council President Donald Tusk.<sup>9</sup> A formal, legal decision to extend sanctions was reached on 22 June 2015, when an EU summit agreed to continue with sanctions on Russia's financial, defence and energy sectors that were due to expire in July.<sup>10</sup> In some respects, however, this was purely symbolic. By linking sanctions to Minsk II, the EU effectively extended the sanctions until 31 December 2015, which is the deadline for Ukraine to regain full control over its border with Russia (point 9 of the agreement).

EU leaders will next discuss the sanctions against Russia on 17 and 18 December, at a scheduled European Council meeting in Brussels, Belgium.<sup>11</sup> Unless sanctions are renewed, they will lapse on 31 January 2016.

## 4. Implementation of Minsk II

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Minsk II was an attempt – a fragile attempt, at that – to put some life back into the Ukraine peace process. In February, the prospects were not good that the agreement would be followed any more rigorously than its predecessor, the Minsk Protocol, had been. And so it has proven. Russia has laid all the blame for this on Ukraine, while Kyiv has pointed to any number of violations by Russia and the Russia-backed separatists. Ultimately, Minsk II has fallen apart because Russia has continued to wage war, while Ukraine has, in large part, sought peace.

Ukraine's attempts to implement its Minsk II commitments have not been unproblematic. On 31 August, Ukraine's Rada voted to undertake a number of constitutional changes that would severely limit Kyiv's influence in separatist-held areas, in line with point 11 of the agreement. The parties in coalition with Poroshenko's ruling party largely voted for the measure.<sup>12</sup> In response, a Ukrainian nationalist paramilitary group carried out a grenade attack outside the Parliament building, which killed three people and injured dozens more. Shortly afterwards, Poroshenko's coalition fractured. On 1 September, the Radical Party, the smallest of the five parties in the government, withdrew in protest at the same vote. On the same day, the Radical Party's Valeriy Voshchevskiy tendered his resignation as Vice Prime Minister.

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<sup>9</sup> 'European Council Conclusions on external relations (19 March 2015)', *European Council*, 19 March 2015, available at: <http://www.consilium.europa.eu/en/press/press-releases/2015/03/conclusions-russia-ukraine-european-council-march-2015/>, last visited: 4 December 2015.

<sup>10</sup> Jozwiak, R., 'EU Links Russian Sanctions To Minsk Agreement', RFE/RL, 20 March 2015, available at: <http://www.rferl.org/content/european-union-ukraine-russia-sanctions-brussels-summit/26910898.html>, last visited: 4 December 2015.

<sup>11</sup> That is, unless a decision is made before then, as happened in June 2015.

<sup>12</sup> Although the Rada is composed of 450 seats, only 423 are currently occupied. The remaining seats are those representing Crimea, Donetsk, Luhansk and Crimea, which are themselves occupied by Russia.

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This episode illustrates the extent to which Poroshenko has paid a significant political price for honouring his side of Minsk II.

As Poroshenko has come under increasing pressure from Ukrainians and his Western allies to abide by Minsk II, Russia has repeatedly violated it. There are three key aspects of the agreement where Russia is not meeting its obligations:

### ***4.1 Monitoring and verification of the ceasefire and withdrawal of heavy weapons.***

The ceasefire may have begun, as expected, at midnight on 15 February 2015, but Russia's behaviour, as has often been the case, has been deliberately provocative.

Russia gamed Minsk II. In the three days between the signing of Minsk II and the beginning of the ceasefire (and establishment of the 'Line of Contact' between Kyiv and separatist-held territory), Russian forces and their proxies took more territory from Ukraine, particularly around or near to strategic points, such as the train junction of Debaltseve. Since the ceasefire came into effect, armed hostilities have continued in some areas of the Donetsk and Luhansk regions.

The nature of Russia's war has changed. Large-scale offensives, which characterised its breaking of the Minsk Protocol, have largely stopped. They have been replaced by small-scale, local escalations of violence, such as those in the Kyiv-controlled town of Mariinka on 3 June, and the Kyiv-controlled villages of Novolaspa and Starohnativka on 9 and 10 August.<sup>13</sup> The withdrawal of heavy weapons from the line of contact would have begun to address this situation, if the Russian-backed separatists had done so. Instead, the separatists continued to shell populated areas, including the Kyiv-controlled town of Avdiivka.

Following months of quiet, the war started again in early November. On 3 and 4 November, five Ukrainian troops were injured after their positions, near the ruins of Donetsk airport, were shelled by the separatists.<sup>14</sup> The following day, on 5 November, the separatists announced that they had withdrawn weapons from the line of contact near Donetsk airport – but this covered only light weapons.<sup>15</sup> As the OSCE noted, the separatists' heavy artillery remained.<sup>16</sup> On 13 and 14 November, five Ukrainian soldiers were killed in the area following shelling by the separatists.<sup>17</sup> A week or so later, two more Ukrainian soldiers were killed in the same area.<sup>18</sup> A further two soldiers were killed in early December.<sup>19</sup>

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<sup>13</sup> 'Report on the human rights situation in Ukraine 16 May to 15 August 2015', *Office of the United Nations High Commissioner for Human Rights*, 15 August 2015, available at: <http://www.ohchr.org/Documents/Countries/UA/11thOHCHRreportUkraine.pdf>, last accessed: 11 December 2015.

<sup>14</sup> 'Ukrainian government forces, separatist rebels in east threaten to stop weapons pullback', Associated Press, 4 November 2015, available at: <http://www.usnews.com/news/world/articles/2015/11/04/weapons-pullback-in-eastern-ukraine-in-jeopardy>, last visited: 4 December 2015.

<sup>15</sup> 'Ukraine Military Completes Light Weapons Withdrawal From Frontlines', Radio Free Europe/Radio Liberty, 7 November 2015, available at: <http://www.rferl.org/content/ukraine-military-light-weapons-withdrawal/27351104.html>, last visited: 4 December 2015.

<sup>16</sup> Hoffmann, M., 'Playing with fire in Donbass', *Die Welt*, 19 November 2015, available at: <http://www.dw.com/en/playing-with-fire-in-donbass/a-18863295>, last visited: 7 December 2015.

<sup>17</sup> 'Five soldiers killed in east, highest toll in two months: Ukraine military', *Reuters*, 14 November 2015, available at: <http://www.reuters.com/article/us-ukraine-crisis-casualties-idUSKCN0T30O120151114#2whUwrvZsYIWIAMQ.97>, last visited: 4 December 2015.

<sup>18</sup> 'Two Ukrainian soldiers killed, two wounded over past 24 hours', *Ukraine Today*, 23 November 2015, available at: <http://uatoday.tv/politics/dozens-of-truce-violations-documented-on-november-22-in-east-ukraine-539559.html>, last visited: 11 December 2015.

<sup>19</sup> 'One Ukrainian soldier dead, at least one injured – media reports', *Ukraine Today*, 1 December 2015, available at: <http://uatoday.tv/politics/one-ukrainian-soldier-killed-one-wounded-in-donbas-in-last-day-545499.html>, last visited: 4 December 2015; 'One Ukrainian soldier killed, three wounded in country's east conflict zone', *Ukraine Today*, 2 December 2015, available at: <http://uatoday.tv/news/one-ukrainian-soldier-killed-three-wounded-in-country-s-east-conflict-zone-546111.html>, last visited: 11 December 2015.

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The OSCE, which was appointed to monitor the ceasefire and withdrawal of weapons (point 3 of Minsk II), has been unable to carry out its duties because Russian-backed separatists have restricted the Special Monitoring Mission's freedom of movement and interfered with its operations. This includes denying it access to the border with Russia: it was only on 15 October, a full eight months after Minsk II was agreed, that the OSCE was able to access the Ukraine-Russia border, and even then it was only partial – it was granted access in Donetsk but not Luhansk.<sup>20</sup> The separatists, in addition, have refused to provide the OSCE with details of the number and whereabouts of the heavy weapons they possess.<sup>21</sup>

The poor security situation has hampered the OSCE's ability to operate. Because of the situation, the OSCE monitors travel in armoured cars and use small drones to monitor ahead of patrols and for satellite imagery. Yet, many of the drones have been jammed to prevent them from observing the areas under the separatists' control.<sup>22</sup>

### ***4.2 Ensure safe access, delivery, storage, and distribution of humanitarian aid to those in need, on the basis of international supervision.***

In January 2015, the Ukrainian government placed restrictions on freedom of movement between the separatist-held territories and Ukraine 'proper'. A move designed to shore up the security of Ukraine in reality impeded the delivery of humanitarian aid, which is point 7 of Minsk II.

The so-called Temporary Order severely restricted the delivery of food and medicine to the separatist-held territories. Commercial cargos of food and medicine were prohibited, cumbersome registration procedures were introduced for providers of humanitarian assistance, humanitarian aid was taxed, and permits were introduced for civilians crossing the Line of Contact. Of the seven transport corridors created to control the flow of transport between the separatist-held territories and Ukraine 'proper', only one was open for cargo.

Following pressure from its international allies, Ukraine revised the Temporary Order on 16 June, waiving the requirement to obtain a permit in particular situations. The following month, Kyiv introduced a web portal for civilians applying for and receiving permits.

While Kyiv moved to loosen its restrictions, the separatists increased pressure on humanitarian organisations – in April, the International Rescue Committee was forced to close its offices in Donetsk, after it was raided by the Ministry of State Security<sup>23</sup> – and tightened their restrictions. In June, both the so-called Donetsk People's Republic (DPR) and Luhansk People's Republic (LPR) introduced a process of "registration" for humanitarian organisations, wherein organisations had to apply for "accreditation" from the separatists before they were able to enter their territories. On 16 July, a World Food Programme convoy was banned from entering DPR because it had not been "accredited" for delivering humanitarian assistance. This ban remained in place for three months.

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<sup>20</sup> 'OSCE monitors get partial access to Ukraine-Russia border in Donetsk region – Poroshenko', *Interfax Ukraine – Ukraine News Agency*, 15 October 2015, available at: <http://en.interfax.com.ua/news/general/296525.html>, last visited: 4 December 2015.

<sup>21</sup> 'Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 16 November 2015', *OSCE*, 17 November 2015, available at: <http://www.osce.org/ukraine-smm/200571>, last visited: 4 December 2015.

<sup>22</sup> 'Russia's Ongoing Failure to Meet its Obligations and Commitments in Ukraine', *United States Mission to the OSCE*, 17 September 2015, available at: <http://www.osce.org/pc/185276?download=true>, last visited: 4 December 2015.

<sup>23</sup> 'International Rescue Committee forced out of East Ukraine', *BBC News*, 20 April 2015, available at: <http://www.bbc.co.uk/news/world-europe-32526595>, last visited: 4 December 2015.

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Months later, in late September, both DPR and LPR blocked most Western humanitarian organisations from operating in their territories. The LPR, for example, refused to renew accreditation for 10 out of 11 foreign humanitarian agencies, including *Médecins Sans Frontières* and the United Nations Children's Fund (UNICEF), and accused them of spying for the West.<sup>24</sup> Highlighting the arbitrariness of the separatists' decision, the Red Cross was allowed to continue operating.<sup>25</sup> On 23 October, *Médecins Sans Frontières* closed its offices in Donetsk after the DPR withdrew its accreditation.<sup>26</sup> According to Stephen O'Brien, head of the *Médecins Sans Frontières* mission in Ukraine, the DPR's actions were a "blatant violation of international humanitarian law".<sup>27</sup>

All of this has taken place at the same time as the humanitarian situation in the separatist-held areas has worsened. Food is a case in point. Basic commodities are available in urban areas, but the purchasing power of the average person has been steadily decreasing. Prices of foodstuffs in the separatist-held territories are around 70% higher than in the rest of Ukraine, making them largely unaffordable for many people. Forcing *Médecins Sans Frontières* out of DPR has meant that 150,000 people have not received monthly food distributions. Closing down UNICEF in both Donetsk and Luhansk means that 60,000 people do not have access to food, hygiene, and medical supplies.<sup>28</sup>

Russia, for its part, continues to send white-truck convoys to the separatist-held territories without the consent or inspection of Ukraine. As of 19 November 2015, Russia had sent 45 convoys, the latest of which allegedly contained more than 100 vehicles carrying a thousand tonnes of food and humanitarian aid.<sup>29</sup>

### ***4.3 Withdrawal of all foreign armed groups, weapons and mercenaries from Ukrainian Territory, which would be monitored by the OSCE.***

Russia maintains that it has no official military presence in eastern Ukraine. Despite this, there is overwhelming evidence that the Kremlin maintains troops, supplies military equipment, and funds 'volunteer' forces in parts of the Donbas. This is in violation of point 10 of Minsk II.

In March 2015, US Army Europe Commander Ben Hodges estimated that there were 12,000 Russian soldiers in eastern Ukraine and a further 50,000 positioned on Russia's side of the Ukrainian border.<sup>30</sup> Russia's military operation is not static, and thus its presence varies with the situation on the ground. In mid-2014, at the height of the fierce fighting, Russia had several heavily armoured brigade-size formations. In mid-2015, by contrast, Russia had skeleton forces of special

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<sup>24</sup> Sengupta, K., 'Ukraine crisis: Humanitarian workers flee from east of the country', *The Independent*, 6 October 2015, available at: <http://www.independent.co.uk/news/world/europe/ukraine-crisis-humanitarian-workers-flee-from-east-of-the-country-a6668621.html>, last visited: 4 December 2015.

<sup>25</sup> Mills, L., 'Russian-Backed Separatists Ban Foreign Aid Workers in Eastern Ukraine', *Wall Street Journal*, 25 September 2015, available at: <http://www.wsj.com/articles/russian-backed-separatists-ban-foreign-aid-workers-in-eastern-ukraine-1443203754>, last visited: 4 December 2015.

<sup>26</sup> 'Ukraine: MSF forced to end activities in Donetsk leaving thousands without life-saving healthcare', *Médecins Sans Frontières*, 23 October 2015, available at: <http://www.msf.org.uk/article/ukraine-msf-forced-to-end-activities-in-donetsk-leaving-thousands-without-life-saving>, last visited: 7 December 2015.

<sup>27</sup> Anna, C., 'UN: Agencies, major NGOs ordered out of Ukraine's Luhansk', *Associated Press*, 24 September 2015, available at: <http://bigstory.ap.org/article/621f1499c514439484632e2e0cbb112/un-agencies-major-ngos-ordered-out-ukraines-luhansk>, last visited: 8 December 2015.

<sup>28</sup> Miller, C., 'Humanitarian crisis looms in eastern Ukraine as winter approaches', *Mashable*, 29 October 2015, available at: <http://mashable.com/2015/10/29/humanitarian-crisis-in-eastern-ukraine/#HsWvm1xKAiqa>, last visited: 4 December 2015.

<sup>29</sup> '45th Russian convoy crosses Ukrainian border', *Ukraine Today*, 19 November 2015, available at: <http://uatoday.tv/politics/45th-russia-aid-convoy-enters-ukraine-537639.html>, last visited: 11 December 2015.

<sup>30</sup> 'Some 12,000 Russian soldiers in Ukraine supporting rebels: U.S. commander', *Reuters*, 3 March 2015, available at: <http://www.reuters.com/article/us-ukraine-russia-soldiers-idUSKBNOLZ2FV20150303#QIZWvfAOzTH9dQbA.97>, last visited: 7 December 2015.

forces and logistic personnel. Russian regular armed forces and Main Intelligence Directorate (GRU) personnel are also engaged in training, equipping, and supplying the separatist forces as well as their command and control structures. An estimate by Ukraine's National Security and Defence Council, in August 2015, put the number of Russian troops at 9,000, in addition to 33,400 irregular troops.<sup>31</sup>

Typically, Russian soldiers enter Ukraine from border camps in Russia. According to individuals who were based at the Kuybyshevo Camp, which was established in Russia only 3 kilometres from the Ukraine border for the purpose of staging artillery attacks, soldiers conceal the identifying features of their military vehicles, remove insignia from their uniforms, and then cross the Ukrainian border to join the pro-Russian separatist forces.<sup>32</sup> Once in Ukraine, these soldiers are no longer considered Russian troops; rather, they are considered as 'local defence forces', just as their colleagues in Crimea were.

Just about the only people blind to Russia's forces in Ukraine are the OSCE – the people who matter. This is because the pro-Russian separatists have denied the OSCE access to where the Russian forces are located (see section 4.1). Nevertheless, so convincing is the evidence that the OSCE has noted that the ongoing war in eastern Ukraine is “fuelled by the presence and continuing influx of foreign fighters and sophisticated weapons and ammunition from the Russian Federation”.<sup>33</sup>

Beyond the presence of Russian soldiers in Ukraine, the other major indicator of Russian soldiers having fought in Ukraine is the steady stream of coffins returning to Russia under the label “Cargo 200”. According to a comprehensive list published by the NGO Open Russia, at least 276 Russian soldiers, including both conscripts and mercenaries, died while fighting in eastern Ukraine in the 12 months between May 2014 and May 2015, of which five were killed since the signing of Minsk II.<sup>34</sup>

## 5. Policy Recommendations

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There can be no doubt that Russia gained most from the Minsk II agreement. Putin not only forced Ukraine to accept, as legitimate, the authorities he installed in the territories invaded by Russia, but also forced Kyiv to rewrite the Ukrainian constitution to give special powers to the separatist-held territories. As a result of the agreement, Ukraine's progress toward the EU (and, potentially, NATO) is a great deal more difficult and Ukraine is in a much weaker position should the fighting resume in the east. For all of this, it is Putin – ironically – who has done the least to ensure the agreement remains in place.

There are a number of specific policy recommendations that arise from this paper:

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<sup>31</sup> Nathan, A., 'Ukraine fears “big war” as Russia sends in more troops', *Independent on Sunday*, 16 August 2015.

<sup>32</sup> “‘I serve the Russian Federation!’ Soldiers deployed during the annexation of Crimea speak”, *Meduza*, 16 March 2015, available at: <https://meduza.io/en/feature/2015/03/16/i-serve-the-russian-federation>, last visited: 7 December 2015.

<sup>33</sup> 'Report on the human rights situation in Ukraine: 16 May to 15 August 2015', *Office of the United Nations High Commissioner for Human Rights*, available at: <http://www.ohchr.org/Documents/Countries/UA/11thOHCHRreportUkraine.pdf>, last visited: 7 December 2015.

<sup>34</sup> 'Otkritaya Rossiya ustanavlivaet lichnosti pogibshikh iz spiska <<Gruz-200>>' [‘Open Russia identifies the identity of the victims of <<Cargo-200>>’], Open Russia, 1 April 2015, available at: <https://openrussia.org/post/view/1772>, last visited: 7 December 2015.

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- **The EU should renew existing sanctions.** Russia has violated the Minsk II agreement and will not meet its commitments by the end of 2015, thereby renegeing on the deal. Therefore the EU should, as a matter of course, renew its sanctions. Any other course of action would be to tolerate, if not encourage, Russia's war in Ukraine.
- **The EU should tighten implementation of existing sanctions.** A number of individuals and entities, who are subject to sanctions, have been able to circumvent existing restrictions in particular EU member states. For sanctions to be effective, therefore, their applications needs to be tightened. The European External Action Service should examine how this has been allowed to happen, and how it can be prevented in the future.
- **The EU should begin preparing new sanctions against Russia.** The primary objective, for Ukraine and for the West, remains to ensure that Russia adheres to Minsk II. For this to be achieved, it will not be enough to keep setting new ceasefire deadlines when Russia misses the existing ones. It is essential to demonstrate both a willingness to talk to President Putin and a readiness to increase sanctions against Russia.
- **Those countries already doing so should continue training and equipping Ukrainian forces to ensure that they would be able to defend the rest of their territory if fighting were to resume.** Given the shortcomings in the Minsk II agreement, and President Putin's ability to start and stop war whenever he wishes, Ukraine needs strong defence forces. The West cannot stop Putin escalating the conflict again if he chooses to, but it can raise the cost to him. There will be no Western consensus, but Ukraine should be provided with further non-lethal military aid by the West.
- **The international community should increase funding to humanitarian organisations operating in eastern Ukraine.** An estimated 3 million people live in the DPR and LPR, and a humanitarian crisis is looming there, with acute shortages in food, health services, medicine, and adequate shelter. The separatists have banned a number of international NGOs from operating in eastern Ukraine, and thus significant support must be given to humanitarian organisations that are still active there. Without this, the human cost of the Ukraine crisis will rise.

### About the Author

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### About the Russia Studies Centre

The Russia Studies Centre is a research and advocacy unit, operating within The Henry Jackson Society, dedicated to analysing contemporary political developments and promoting human rights and political liberty in the Russian Federation.



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